

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

1 S.A.N.T., INC. (a/k/a 1 SAINT, INC.) d/b/a
TOWN & COUNTRY and d/b/a GATHERINGS
BANQUET & EVENT CENTER, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

BERKSHIRE HATHAWAY INC.; and
NATIONAL FIRE & MARINE INSURANCE
COMPANY,

Defendants.

Civil Action No. 20-862

Judge William S. Stickman IV

**NATIONAL FIRE & MARINE INSURANCE COMPANY’S MOTION TO DISMISS
FOR FAILURE TO STATE A CLAIM PURSUANT TO FED. R. CIV. P. 12(b)(6)**

Defendant National Fire & Marine Insurance Company (“National Fire”) moves to dismiss this action for failure to state a claim pursuant to Fed. R. Civ. P. 12(b)(6). As explained in National Fire’s brief in support of this Motion, Plaintiff’s First Amended Complaint fails to state a claim upon which relief may be granted for several reasons, including: (a) the plain and unambiguous virus exclusion in the insurance policy applies, and should be enforced; and (b) Plaintiff has not suffered the physical damage to property necessary to trigger coverage under the insurance policy.

Respectfully submitted,

/s/ Robert L. Byer

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